

LAR 25.0 FILING AND SERVICE

25.1 Facsimile Filing

Papers may not be filed by facsimile without prior authorization by the clerk. Authorization may be secured only in situations determined by the clerk to be of an emergency nature or other compelling circumstance. In such cases, the original signed document must be filed promptly thereafter.

Source: None

Cross-references: None

Committee Comments: This rule deals solely with filing by fax. The filing of briefs by e-mail or other electronic means (not including fax) is governed by LAR 31.1.

28.4 Signing the Brief

All briefs must be signed in accordance with the provision of L.A.R. 46.4. Electronic briefs may be signed with either an electronically generated signature or “/s typed name” in the signature location. Counsel’s Bar number and address and phone number shall be included with the signature.

Source: Fed. R. Civ. P. 11

Cross-references: L.A.R. 46.4

Committee Comments: This rule is derived from Fed. R. Civ. P. 11 which requires signatures on all papers. The signing of documents is important because it constitutes a certificate by the attorney or party that he or she has read the pleading or brief to ensure that it complies with all federal and local rules. The requirement is interpreted broadly and the attorney of record may designate another person to sign the brief. If a party is represented by multiple counsel, the signature from only one attorney of record is required.

L.A.R. 31.0 FILING AND SERVICE OF BRIEFS

31.1 Number of Copies to be Filed and Served

(a) Unless otherwise required by this court, each party shall file ten (10) paper copies of

each brief with the clerk and, unless counsel has consented to electronic service, serve two (2) paper copies on counsel for each party separately represented. In Virgin Islands cases only, one additional paper copy of the briefs shall be filed with the clerk of the district court in the location from which the appeal is taken (St. Thomas or St. Croix). When hearing or rehearing by the court en banc is ordered, the parties will be directed to file additional paper copies for the court's use.

(b) In addition to the paper briefs, counsel for any party or amicus curiae must file with the court the same brief in electronic form.

(1) Filing must be by e-mail or such other method as the court specifies.

(2) The brief must be in PDF format. The Clerk may prescribe additional requirements to aid in transmission.

(3) The date of filing the brief is the date the electronic version of the brief is received by the Clerk, provided that ten paper copies are mailed as provided in Rule 25(a)(2)(B), Fed. R. App. Pro. on the same day as electronic transmission.

(4) The electronic version of the brief is the official record copy of the brief; if corrections are required to be made to the paper brief, a corrected copy of the electronic brief must be provided.

(5) Litigants proceeding pro se need not file an electronic brief.

(c) In addition to the certification of type-volume limitations required by Rule 32(a)(7)(C), and in the same document, counsel must certify that the text of the electronic brief is identical to the text in the paper copies. Counsel must also certify that a virus detection program has been run on the file and that no virus was detected. The certification must specify the version of the virus detection program used. Sanctions may be imposed if a filing contains a computer virus or worm.

(d) A party may serve the opposing party electronically only with the prior consent of the opposing party. If electronic service is used, the filing party must note in the certificate of service that the opposing party consented to electronic service. If parties consent to electronic service, paper copies need not be served.

Source: 1988 Court Rule 21.2

Cross-references: F.R.A.P. 28-32; 3rd Cir. L.A.R. 28-32

Committee Comments: The rule was amended to require electronic filing of briefs. Instructions on electronic filing can be found on the court's web

site at www.ca3.uscourts.gov. A party proceeding pro se need not file electronically, but if the party wishes to file electronically, this rule must be followed. PDF format makes a document more stable when electronically transmitted. This format also insures that pagination remains the same regardless of what printer is used to print the document.

L.A.R. 32.0 FORM OF BRIEFS, THE APPENDIX AND OTHER PAPERS

32.1 Forms of Briefs, Appendices, Motions, and Other Papers

All briefs, appendices, motions and other papers (collectively "papers") shall conform to the following requirements, unless otherwise provided by the F.R.A.P.:

(a) All papers shall be firmly bound at the left margin, and any metal fasteners or staples must be covered. All fasteners must have smooth edges. Use of backbones or spines without stapling is prohibited. Forms of binding such as velo binding and spiral binding are acceptable forms of binding.

(b) All papers shall have margins on both sides of each page that are no less than one (1) inch wide, and margins on the top and bottom of each page that are no less than three-quarters (3/4) of an inch wide.

(c) Typeface. Briefs shall comply with the provisions of F.R.A.P. 32(a)(5) and (6).

(d) Electronic briefs must be in PDF format; the entire brief must be contained in one electronic file. Only paper copies of the appendix are required.

Source: 1988 Court Rules 21.2(B), 22 and 22.1

Cross-references: F.R.A.P. 27, 32, 40; 3rd Cir. L.A.R. 27.0, 35.1 and 35.2

Committee Comments: The portions of prior Court Rules 21.2(B) and 22.1 that were repetitive of F.R.A.P. 32 have been deleted. The rule was amended to require electronic filing of the brief. Binding volume one of the appendix into the paper brief only, which is preferred, does not prevent counsel from certifying as required in L.A.R. 31.1(c) that the text of the paper brief and the electronic brief are identical.